IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.6l52 of 2005

M/s Tripura Online Lottery.. Petitioners

vs

Anant M Yadav & ors...Respodents

Mr R.D.Soni for Ram & Co for petitioners

Mr. S.S.Kulkarni for respondent nos. l and 3

Mr. S.N.Gawade for respondent no. 5

Mr. P.S.Dani for respondent no.9

CORAM: S.U.KAMDAR J.

Dated 13.l2.2005

P.C:

. The present petition is challenging the order dated 5.8.2005 passed by the trial court on application made by the original plaintiff on 5.8.2005 in which a prayer is made for leave under section 9l(l)(b) of the CPC to sue the petitioner for nuisance. The provisions of section 9l have been interpreted by this court in judgement of the division bench in Municipal Council Jalna and ors vs Eknath Narayan Shankar Pelli and ors, reported

in 200(l) Mah LJ 20l in which it has been held that granting leave under section 9l of the CPC to institute a suit for nuisance in a representative capacity is not mere empty formality. It must be a reasoned order. The trial court has given three line order saying that in the interest of justice permission is granted but no reasons are set out in the order. Thus the impugned order suffers from infirmity and same is required to be quashed and set aside. The order dated 5.8.2005 on application of the original plaintiff is quashed and set aside.Petition is made absolute. The main application for permission under section 9l(l)(b) of the CPC is remitted back for hearing to the Civil Judge S.D. Pune in accordance with law and as per the above cited judgement of the single Judge of this court. The trial court is directed to dispose of the application within two months from today. Petition is disposed of accordingly with no order as to costs.